

CHAPTER 6

TRIAL COURTS

ARTICLE 4

ELECTRONIC FILING IN TRIAL COURTS

Section.

- 6-401. Definitions.
- 6-402. Pilot project; schedule of courts; suspension.
- 6-403. Attorney registration.
- 6-404. Initial pleading and summons; copy costs.
- 6-405. Pleadings allowed by e-filing.
- 6-406. Time of filing.
- 6-407. Maintaining printed copies.
- 6-408. Documents filed under seal; motion and order.
- 6-409. Signature requirements.
- 6-410. Court documents served on registered attorneys.
- 6-411. Form of e-filed pleadings.
- 6-412. Signatures indicated by typing.
- 6-413. Return envelopes unnecessary.
- 6-414. Transmission technical problems; corrective order.
- 6-415. Good faith compliance; waiver of certain defects.
- 6-416. Appeal of e-filed cases.
- 6-417. Change of attorney; unregistered attorney; reversion to paper file.
- 6-418. Conversion of e-files to paper files.

§ 6-401. Definitions.

(A) Electronic Filing System. Electronic filing system (E-Filing System) approved by the Nebraska Supreme Court for filing of pleadings, motions, and other papers (Documents) via the Internet through the court-authorized service provider.

(B) Electronic Filing. Electronic filing (E-Filing) is the transmission of Documents to the Clerk of the Court, and from the court, via the E-Filing System.

§ 6-401(A) amended and § 6-401(C) deleted August 12, 2008

§ 6-402. Pilot project; schedule of courts; suspension.

E-Filing is authorized on a pilot project basis for certain cases filed in specified district and county courts in Nebraska, as set forth in a schedule by the Administrative Office of the Court, as revised from time to time. At the discretion of the Chief Justice, in consultation with the presiding judge of the particular court, E-Filing may be suspended in certain courts that are experiencing technical difficulties.

§ 6-402 amended August 12, 2008.

§ 6-403. Attorney registration.

For purposes of the pilot project, only attorneys licensed to practice law in Nebraska may register to use the E-Filing System. Any attorney so registered may make an entry of appearance through E-Filing.

§ 6-404. Initial pleading and summons; copy costs.

Under the pilot project, cases may be commenced under Neb. Rev. Stat. § 25-501 through an E-Filing. The electronic filing of a complaint or other initial pleading from which printed copies can be made shall be deemed compliant with the requirement of Neb. Rev. Stat. § 25-504.01 to supply copies of a complaint. The court clerk shall print sufficient copies for service with the summons. The party filing such complaint or pleading electronically shall be deemed to have consented to pay the reasonable expense of printing such copies. The summons and any required attachments to the summons shall be provided in printed form by the court clerk and shall be served in accordance with Neb. Rev. Stat. § 25-505.01 et seq., unless service is waived or otherwise excused by law. If an attorney who has entered an appearance in a case has not registered for E-Filing, then service of the e-filed pleading upon that attorney shall be made as required by law.

Rule 4 amended December 20, 2006. Renumbered and codified as § 6-404, effective July 18, 2008; § 6-404 amended August 12, 2008.

§ 6-405. Pleadings allowed by e-filing.

For cases under the pilot project, Documents which are required by Neb. Ct. R. Pldg. § 6-1105 to be filed in the office of the court clerk may be filed through an E-Filing.

§ 6-406. Time of filing.

All Documents electronically received by the court clerk by 11:59:59 p.m. local time shall be deemed to have been filed on that date.

Rule 6 amended June 4, 2008. Renumbered and codified as § 6-406, effective July 18, 2008.

§ 6-407. Maintaining printed copies.

A printed copy of an E-Filed Document with original signatures shall be maintained by the filing party and made available for inspection by other parties or the court upon request, but shall not be filed with the court. Where these rules require a party to maintain a Document, the filer is required to maintain the Document for a period of 2 years after the final resolution of the action, including the final resolution of all appeals.

§ 6-407 deleted and § 6-408 renumbered to § 6-407 on August 12, 2008.

§ 6-408. Documents filed under seal; motion and order.

A motion for leave to file Documents under seal may be E-Filed. Documents to be filed under seal pursuant to an order of the court shall not be E-Filed.

§ 6-409 renumbered to § 6-408 on August 12, 2008.

§ 6-409. Signature requirements.

Use of the E-Filing System by an attorney shall constitute compliance with the Neb. Ct. R. Pldg. § 6-1111 signature requirement and the attorney using the E-Filing System shall be subject to all other requirements of Neb. Ct. R. Pldg. § 6-1111 and Neb. Rev. Stat. § 5-824 et seq. Signatures of parties, witnesses, and notaries and notary stamps may be typed using the signature format “/s/ [typed name]” and using the stamp format “seal” and commission expiration date and E-filed to satisfy signature and certification requirements, once the filing party has possession of the original signatures and stamps.

§ 6-410 renumbered to § 6-409 on August 12, 2008.

§ 6-410. Court documents served on registered attorneys.

A court may transmit orders, notices, and other court entries via the E-Filing System to attorneys registered to use the E-Filing System.

§ 6-411 renumbered to § 6-410 on August 12, 2008.

§ 6-411. Form of e-filed pleadings.

Neb. Ct. R. Pldg. § 6-1110 shall apply to E-Filed Documents. An E-Filed Document shall not be transmitted to the District Court Clerk/County Court Clerk Magistrate by any other means unless the court at any later time requests a printed copy bearing original signatures.

§ 6-412 renumbered to § 6-411 on August 12, 2008.

§ 6-412. Signatures indicated by typing.

A document that requires the signatures of opposing parties or counsel (such as a stipulation) may be electronically filed by typing the names of each signing party or counsel, but the filer is required to first obtain the original signatures of all opposing parties or counsel on a printed document.

§ 6-413 deleted and § 6-414 renumbered to § 6-413 on July 23, 2008; § 6-413 renumbered to § 6-412 on August 12, 2008.

§ 6-413. Return envelopes unnecessary.

Attorneys who E-File shall not submit paper, self-addressed, stamped envelopes for the purpose of receiving a signed order or file-stamped copies of pleadings back from the court in active cases. Local courts shall use E-Filing to distribute such court orders or file-stamped copies of pleadings.

§ 6-415 renumbered to § 6-414 on July 23, 2008; § 6-414 renumbered to § 6-413 on August 12, 2008.

§ 6-414. Transmission technical problems; corrective order.

Upon satisfactory proof that E-Filing of a Document is not completed because of (1) an error in the transmission of the Document to the E-File System service provider which was unknown to the sending party or (2) a failure to process the electronic filing when received by the court clerk, the court may enter an order permitting the Document to be filed as of the date it was first attempted to be sent electronically. Notwithstanding the foregoing, no order may be entered under this rule which expands the statutory time period for commencing an action or perfecting an appeal unless there is an affirmative showing that the failure to make a timely filing was due solely to an E-Filing System internal transmission error or a processing error by the court clerk.

§ 6-416 renumbered to § 6-415 on July 23, 2008; § 6-415 renumbered to § 6-414 and amended on August 12, 2008.

§ 6-415. Good faith compliance; waiver of certain defects.

Upon a showing of substantial good faith compliance with the E-Filing System interim rule, the court may waive nonjurisdictional defects in an E-Filing if it finds that no harm has occurred to any party as a result of the defective E-Filing.

§ 6-417 renumbered to § 6-416 on July 23, 2008; § 6-416 renumbered to § 6-415 and amended on August 12, 2008.

§ 6-416. Appeal of e-filed cases.

If an E-Filing court case is appealed, the clerk of the E-Filing court shall prepare a paper file from the electronic files of the case to submit to the appellate court.

§ 6-418 renumbered to § 6-417 on July 23, 2008; § 6-417 renumbered to § 6-416 on August 12, 2008.

§ 6-417. Change of attorney; unregistered attorney; reversion to paper file.

In the event of a change of attorneys in an E-Filed case from a registered E-filing attorney to an attorney who is not a registered E-Filing attorney, the case will revert to paper. In that circumstance, the clerk will prepare a paper file from the electronic file.

§ 6-419 renumbered to § 6-418 on July 23, 2008; § 6-418 renumbered to § 6-417 on August 12, 2008.

§ 6-418. Conversion of e-files to paper files.

If the clerk of the court ceases to maintain an electronic file, the clerk will prepare a complete and certified copy of the electronic file in paper form.

§ 6-420 renumbered to § 6-419 on July 23, 2008; § 6-419 renumbered to § 6-418 on August 12, 2008.

Rule 21 amended December 20, 2006. Renumbered and codified as § 6-421, effective July 18, 2008; § 6-421 renumbered to § 6-420 on July 23, 2008. § 6-420 deleted August 12, 2008.

COMMENT

The court-authorized service provider for the pilot project is Nebraska.gov and the State of Nebraska Office of the Chief Information Officer. (Effective April 1, 2008.)

At present, the system is not set up to allow E-Filing by pro se litigants or attorneys not licensed to practice law in Nebraska. The Supreme Court contemplates that E-Filing participants may be expanded in the future.

Comment amended August 12, 2008.

Adopted September 27, 2006.